

342.670 Extraterritorial coverage.

- (1) If an employee, while working outside the territorial limits of this state, suffers an injury on account of which he, or in the event of his death, his dependents, would have been entitled to the benefits provided by this chapter had that injury occurred within this state, that employee, or in the event of his death resulting from that injury, his dependents, shall be entitled to the benefits provided by this chapter, if at the time of the injury:
 - (a) His employment is principally localized in this state, or
 - (b) He is working under a contract of hire made in this state in employment not principally localized in any state, or
 - (c) He is working under a contract of hire made in this state in employment principally localized in another state whose workers' compensation law is not applicable to his employer, or
 - (d) He is working under a contract of hire made in this state for employment outside the United States and Canada.
- (2) The payment or award of benefits under the workers' compensation law of another state, territory, province, or foreign nation to an employee or his dependents otherwise entitled on account of such injury or death to the benefits of this chapter shall not be a bar to a claim for benefits under this chapter, if a claim under this chapter is filed within two (2) years after that injury or death. If compensation is paid or awarded under this chapter:
 - (a) The medical and related benefits furnished or paid for by the employer under another jurisdiction's workers' compensation law on account of such injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this chapter had claim been made solely under this chapter;
 - (b) The total amount of all income benefits paid or awarded the employee under another jurisdiction's workers' compensation law shall be credited against the total amount of income benefits which would have been due the employee under this chapter, had claim been made solely under this chapter; and
 - (c) The total amount of death benefits paid or awarded under another jurisdiction's workers' compensation law shall be credited against the total amount of death benefits due under this chapter.
- (3) If any employee is entitled to the benefits of this chapter by reason of an injury sustained in this state in employment by an employer who is domiciled in another state and who has not secured the payment of compensation as required by this chapter, the employer or his carrier may file with the executive director a certificate, issued by the commission or agency of the other state having jurisdiction over workers' compensation claims, certifying that the employer has secured the payment of compensation under the workers' compensation law of the other state and that with respect to the injury the employee is entitled to the benefits provided under that law, and that the benefits to which the employee or his dependents is entitled are at

least as great as those to which he would be entitled if the injury occurred and was processed under Kentucky law, under Kentucky coverage. In this event:

- (a) The filing of the certificate shall constitute an appointment by the employer or his carrier of the executive director as his agent for acceptance of the service of process in any proceeding brought by the employee or his dependents to enforce his or their rights under this chapter on account of the injury;
 - (b) The executive director shall send to the employer or carrier, by certified mail to the address shown on the certificate, a true copy of any notice of claim or other process served on the executive director by the employee or his dependents in any proceeding brought to enforce his or their rights under this chapter;
 - (c)
 - 1. If the employer is a qualified self-insurer under the workers' compensation law of the other state, the employer shall, upon submission of evidence satisfactory to the executive director, of his ability to meet his liability to the employee under this chapter, be deemed to be a qualified self-insurer under this chapter;
 - 2. If the employer's liability under the workers' compensation law of the other state is insured, the employer's carrier, as to the employee or his dependents only, shall be deemed to be an insurer authorized to write insurance under and be subject to this chapter; however, unless its contract with the employer requires it to pay an amount equivalent to the compensation benefits provided by this chapter, its liability for income benefits or medical and related benefits shall not exceed the amounts of the benefits for which the insurer would have been liable under the workers' compensation law of the other state;
 - (d) If the total amount for which the employer's insurance is liable under (c) above is less than the total of the compensation benefits to which the employee is entitled under this chapter, the executive director may, if he deems it necessary, require the employer to file security, satisfactory to the executive director, to secure the payment of benefits due the employee or his dependents under this chapter; and
 - (e) Upon compliance with the preceding requirements of this subsection (3), the employer, as to the employee only, shall be deemed to have secured the payment of compensation under this chapter.
- (4) Any professional athlete, coach, or trainer who has been hired outside this Commonwealth by an employer domiciled in a foreign state, including professional baseball, basketball, football, and ice-hockey clubs, is exempted from the provisions of this chapter while that employee is temporarily within this Commonwealth doing work for the employer, if the foreign employer has secured workers' compensation insurance coverage under the workers' compensation law of the foreign state, so as to cover the employee's employment while in this Commonwealth. The benefits under the workers' compensation law of the foreign state shall be the exclusive remedy against that employer and any affiliated club for any injury, whether

resulting in death or not, received by any employee while working for that employer in this Commonwealth.

(5) As used in this section:

- (a) "United States" includes only the states of the United States and the District of Columbia;
- (b) "State" includes any state of the United States, the District of Columbia, or any province of Canada;
- (c) "Carrier" includes any insurance company licensed to write workers' compensation insurance in any state of the United States or any state or provincial fund which insures employers against their liabilities under a workers' compensation law;
- (d) A person's employment is principally localized in this or another state when:
 - 1. His employer has a place of business in this or the other state and he regularly works at or from that place of business, or
 - 2. If subparagraph 1. foregoing is not applicable, he is domiciled and spends a substantial part of his working time in the service of his employer in this or the other state;
- (e) An employee whose duties require him to travel regularly in the service of his employer in this and one (1) or more other states may, by written agreement with his employer, provide that his employment is principally localized in this or another state, and, unless the other state refuses jurisdiction, the agreement shall be given effect under this chapter;
- (f) "Workers' compensation law" includes "occupational disease law."

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 355, sec. 1, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 181, Part 15, sec. 94, effective April 4, 1994. -- Amended 1980 Ky. Acts ch. 114, sec. 95, effective July 15, 1980. -- Amended 1974 Ky. Acts ch. 191, sec. 2. -- Created 1972 Ky. Acts ch. 78, sec. 7.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.